

TIPPECANOE COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
JULY 30, 2003

The Tippecanoe County Commissioners held a Special Meeting on Wednesday, July 30, 2003 at 7:00 P.M. in the Tippecanoe Room in the County Office Building. Commissioners present were: President KD Benson, Vice President Ruth E. Shedd, and Member John L. Knochel. Also present were: Auditor Robert A. Plantenga, County Attorney Douglas J. Masson, and Secretary Pauline E. Rohr. (Commissioners' Assistant Jennifer Weston was absent.)

President Benson called the meeting to order and introduced the following officials participating in tonight's meeting:

Anita Nance	DNR Water Resource Planner
Jan Crider	SEMA Hazard Mitigation Officer
Mary Moran	SEMA Program Coordinator
Georgette Waterford	FEMA representative
Jim Hawley	Area Plan Executive Director
Jay Seeger	Area Plan Attorney
Ron Highland	Building Commissioner
Opal Kuhl	City of Lafayette Engineer
Steve Wettschurack	TEMA Director
Al Levy	Zoning Enforcement Officer
Krista Trout	Area Plan

TEMA Director Wettschurack distributed a DNR News Release faxed to the Commissioners at 5:37 P.M. today that defines permissible floodway activities. Ms Nance, a DNR representative, read paragraph 6 of the rule that follows in its entirety.

(quote)

DNR NEWS

Indiana Department of Natural Resources
402 W Washington ST. W 255 B
Indianapolis, IN 46204-2748

For immediate release: July 30,2003

DNR rule defines permissible floodway activities

State law prohibits reconstruction of residences in a floodway

Homeowners considering repairs after recent flooding will be allowed to paint, patch and clean walls and replace carpets and other floor coverings under an emergency rule filed by the Indiana Department of Natural Resources today.

According to Indiana Code (I.C. 14-28-1-20), a homeowner may not reconstruct a residence in a floodway. For example, restoring structural elements such as walls, floors and foundations is not allowed, said John Goss, director of the department, which is required to regulate floodway activities.

Record flooding in July has seriously damaged up to 200 homes that are located in the floodway in several northern Indiana communities. Communities have adopted floodplain ordinances and maps that identify which homes are located in a floodway. According to an Indiana law that has been in effect since 1945, reconstruction of a home damaged by flooding is prohibited when that home is located in a designated regulatory floodway.

DNR works with local communities to regulate the areas that are designated by local floodplain

ordinances and maps. Some homes were constructed before these floodplain ordinances went into effect and are covered by the law prohibiting reconstruction.

The Department of Natural Resources is issuing a rule to clarify the types of repairs that will be allowed.

The DNR rule says, "reconstruction for purposes of IC 14-28-1-20, IC 14-28-1-24, and IC 14-28-1-25, means an activity that rehabilitates or restores the structural elements of the building, including, but not limited to, replacing walls, restoring the foundation, replacing floors, or conducting work on any elements necessary to support the structure. The term does not include activities such as painting, replacing floor coverings, replacing doors, replacing windows, or cleaning."

The State Emergency Management Agency is assisting homeowners with temporary housing while damaged homes are being evaluated. "The best thing for everyone will be to find the funding to purchase these homes in the floodway and allow these folks to relocate to a safer area," SEMA Director Patrick R. Ralston said.

State officials, through SEMA and the Federal Emergency Management Agency, are working to make, funds available to communities to acquire the affected structures.

Indiana is eligible for approximately \$1.8 million so far in federal flood funding to purchase homes and is vigorously pursuing additional funding.

More information:

Russ Grunden, Department of Natural Resources, 317-234-0924

Mike Neyer, DNR Division of Water, 317-232-4160

Alden Taylor, State Emergency Management Agency, 317-232-3992

Jan Crider, SEMA hazard mitigation, 317-232-3833

(unquote)

Ms Nance said this emergency rule clarifies the meaning of reconstruction and defines the types of repairs that will be allowed in a floodway area of the floodplain. She said there are numerous homes in the floodway area in Tippecanoe County.

Ms Crider, SEMA Hazard Mitigation Officer, explained that Hazard Mitigation Grants will be available because Indiana was given a Presidential Disaster Declaration. She said they will use the grants to acquire homes in the floodway because they are normally repetitive loss structures. The Federal Government will provide 75% of the funding and the local entity will provide 25% which may be funding or in-kind service such as demolition. If the community chooses to proceed with the buyout program, homeowners will receive a one time offer to buy their property at the fair market value the day before the flood occurred. She said selling the property to the government is voluntary, but stressed that, if the homeowner declines this opportunity, he will not be entitled to any assistance from FEMA or SEMA. If the government buys the property, the structure will be demolished and the land must be used only as open green space.

President Benson invited individuals in the audience to ask questions and express their concerns but asked them to limit their comments to 3 minutes.

SPEAKERS

Fred Peacock, 6419 Goldsberry Rd.
 Dennis Lindstrom, 6700 Goldsberry Rd.
 Tim Karnehm, 6532 Goldsberry Rd.
 Brenda Taulman-Peacock, 6418 Goldsberry Rd.
 Kenny Calloway, 6524 Goldsberry Rd.
 Chuck Parker, 6332 Goldsberry Rd.
 Charles Aveline, 6320 Goldsberry Rd.
 Mary Owens, 6520 Goldsberry Rd.

Lawrence Humphrey, 6304 Goldsberry Rd.
 Mike Owens, 6520 Goldsberry Rd.
 Kathi Richardson, 6408 Goldsberry Rd.
 Jennifer Whitworth
 Maxine Jonas, 1102 Sycamore St.
 Diane White, 6434 Goldsberry Rd.
 Stacy Johnson, 6328 Goldsberry Rd.
 Jarmy Johnson, 6328 Goldsberry Rd.

Q: Fred Peacock:

- Explain cumulative damage rule.
- If property is reappraised for tax purposes, will that raise the 50% damage level?
- If homeowner does normal repairs such as the roof, does the 50% limit apply?
- What are the constraints on a new well or septic system? Do old or new standards apply?

A: Attorney Seeger:

- 50% limit of fair market value – most recent assessment is fair market value
- Regular maintenance counts against the 50% maximum. This is a lifetime limit.
- The house is in a place not currently allowed by law according to Ordinance 97-51-CM, effective January 2, 1998. Section 5-1-9 addresses Repairs and Maintenance and Section 5-1-2 (d) addresses nonconforming use.

A: Mr. Hawley:

- Ordinance 97-51-CM is less strict than the prior ordinance in 1965.
- The 50% limit is the standard established under FEMA rules and matches the Federal National Flood Insurance program.

Q: Lawrence Humphrey:

- Can we increase the value of our property by improvement?

A: President Benson:

- Not according to Federal National Flood Insurance regulations.

A: Attorney Seeger:

- Only general repairs are allowed. Any expansion, up or out, is a change to a non-conforming use and is not allowed.

Q: Dennis Lindstrom:

- Why were building permits issued for the new Levee project in West Lafayette since it is in the floodplain? He wondered if the amount of money spent had an effect.
- How were permits issued for Williamsburg Apartments?

A: Mr. Hawley:

- The Levee is not in the 100 year event floodplain. The new buildings are 2 feet above the level.
- Williamsburg Apartments were built prior to the 1970s, but they cannot rebuild. The same ordinance is in effect in West Lafayette.

Q: Mike Owens:

- Can we replace drywall?
- We need help with the mosquito problem and the removal of 4 inches of gravel on the road but can get no action.

A: Ms Nance:

- The DNR rule says you cannot replace drywall.

Q: Mr. Peacock:

- Wondered why the elected officials are not responding to the questions.
- What is the agreement from the 1970s you are referring to?

A: President Benson:

- The County entered the National Flood Insurance Program in the 1970s so that Tippecanoe County citizens could purchase flood insurance. By becoming a participant, the County agreed to not allow new building in a floodway.

A: Ms Nance:

- Even if the County were not participating in the program, the State has building restrictions.

A: Ms Crider:

- Since the County participates in the National Flood Insurance program, the community can receive federal assistance for any disaster such as a tornado. Without this participation, assistance would be limited.

Q: Tim Karnehm:

- If money (\$50,000) is put into the house, does the assessed value increase?

A: Auditor Plantenga:

- Although he is not an Assessor, Auditor Plantenga said increased assessed value is usually due to increased square footage, not painting or new carpet.

Q: Dennis Lindstrom:

- He was told by a FEMA official that he can make elevation changes.

A: President Benson:

- FEMA should not have told you that. You cannot build in a floodway.

Q: Kathi Richardson:

- New apartments have been built in the floodplain on N. 9th St.
- Since 1996, 4 trailers have been placed on lots on Goldsberry Rd.
- If they don't take FEMA money, they should be able to do what they want. They should be able to put a trailer on the land. People are being kicked out of their homes. The sick and elderly need to be in their homes now.

A: Mr. Hawley:

- The apartments on N. 9th St. are not located in the floodplain.

Q: Brenda Taulman-Peacock:

- What criteria is used to open the flood gates at Norway Dam in White County?

A: Mr. Wettschurack:

- Contact Bill Hindsley at NIPSCO. NIPSCO controls the dam but he thinks Mr. Hindsley will say that the dam was not built for flood regulatory reasons. Tippecanoe County has no control over what they do.
- Rains of 9" or more in counties (i.e. Howard) to the north caused the Tippecanoe River to flood into the Wabash River.

Q: Jennifer Whitworth:

- Why weren't the rules clarified before permits were issued by the Building Commission?

A: Commissioner Knochel:

- The Building Commission issued permits based on federal guidelines. As of today, very few homes hit the 50% rule. Clarification of the rule was received by fax at 5:30 P.M. today.

Q: Lawrence Humphrey:

- The Commissioners can make an exception.

Q: Kenny Calloway:

- Who keeps track of the 50% loss. He estimated the amount of loss to his house. Is labor cost included?
- Should he continue work on his house?

A: Mr. Seeger:

- Since there are no good records for past damage, everyone will be getting a fresh start.
- The Building Commissioners should be informed if the amount is lower than estimated.

A: Mr. Highland:

- Labor cost is included in the total amount of repair.
- He was unaware of the rule clarification until today.

A: Commissioner Knochel:

- If he were Mr. Calloway, he would continue to work to fix up his house.
- Commissioner Knochel said he took an oath to uphold State and Federal laws whether he agrees with them or not. The Building Commissioner was instructed to show compassion and issue permits as fast as possible.

Q: Maxine Jonas:

- Her brother who lives in Lafayette was told it could take up to a year for the buy-out of his home.

A: Ms Waterford:

- FEMA has several programs for individual assistance.
- The FEMA Field Office was closed because no one came to register for help.
- Must contact FEMA to learn what assistance is available.

A: Ms Nance:

- It is the DNR's job to protect all citizens. They are concerned about the lives of rescue workers.
- If you don't take the assistance, you still have to follow the rules.

Q: Chuck Parker:

- If there is no structural damage, do normal repairs count against the 50% rule?
- He was told by FEMA that County rules outweigh State or Federal.

A: Attorney Seeger:

- A homeowner is allowed 10% per year up to a total of 50%.

Q: Diane White:

- They had 2' of water in their house and 4' of insulation had to be removed. They have a permit but can they add new insulation and replace drywall? If not, then the permit is meaningless.

A: Ms Nance:

- No, under State law the home cannot be reconstructed.

Q: Charles Aveline:

- Can drywall be replaced?

A: Mr. Highland:

- He does not consider drywall as part of the structure but that is not the DNR's interpretation.

A: Ms Nance:

- Only cosmetic repairs are allowed.

A: Mr. Hawley:

- Our attorney will meet with the State DNR and SEMA officials to clarify the interpretation of the rule.

Q: Brenda Peacock:

- Does this new rule overrule previous rules?

A: Ms Nance:

- No. It clarifies the rule for the floodway. She explained floodplain is the area side to side of the 100 year floodplain that includes the floodway. The floodway is approximately in the middle of the floodplain and is the most hazardous place to be located. The floodway is the area needed to carry the peak flow of the 100 year flood. A recent study of the Tippecanoe River showed Goldsberry Road is in the floodway.

Q: Lawrence Humphrey:

- He was issued a permit and received FEMA funds for repairs. He purchased drywall, flooring, and other supplies and wondered where he stands.
- If he is bought out, does he have to return the FEMA money?

A: Ms Nance:

- We will need clarification on your home.

A: Commissioner Knochel:

- He feels the County followed the guidelines in place prior to the clarification received late today from the DNR that interpreted drywall as part of the structure.

A: Ms Waterford:

- If the homeowner received FEMA funds and has already done emergency repairs, the money will not have to be returned if the community participates in the buy out of the property as long as the homeowner can produce receipts for the materials.

Q: Diane White:

- They have applied for FEMA funds but have had no response. She wondered how long they have to wait.
- Is replacement of drywall permissible?

A: Ms Waterford:

- After the meeting, she will take names and phone numbers of individuals experiencing communication problems and refer their issues to the appropriate person tomorrow.

A: Attorney Masson:

- Until today, the County thought it was permissible to replace drywall and make non-structural repairs. He said he can't advise homeowners to go against DNR's rules.

Q: Stacey Johnson:

- Who will enforce the work to make sure the homeowner does what is covered in the permit?

A: Commissioner Knochel:

- After our attorneys meet with officials at the DNR and get an interpretation, he thinks enforcement will be up to the Building Commission. Mr. Highland should have names and phone numbers to notify all homeowners of the decision.

Q: Mary Owens:

- They need notification of their status. It is hard to listen to the news if you're working on the structure or on the road traveling to a temporary home.

A: Mr. Highland:

- The Building Commission's Hot Line, 423-9333, will be operational until this situation is settled.

Q: Jarmy Johnson:

- Do the DNR Rules apply statewide?

A: Ms Nance:

- Yes. The clarification of the rule was sent to all media statewide today.

Q: Kathi Richardson:

- What are local officials doing to resolve the issues?

A: President Benson:

- The Commissioners will get an interpretation as soon as possible on the rule clarification. The Commissioners got the permits issued quickly but they have to follow the rules.

A: Commissioner Shedd:

- The Commissioners are trying to help by finding available help. The Commissioners have to follow rules set out by SEMA, FEMA, DNR, and County ordinances. Laws have to be changed by legislators.

ADJOURNMENT

There being no further business, the meeting adjourned.

Robert A. Plantenga, Auditor

**BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE**

KD Benson, President

Ruth E. Shedd, Vice President

John L. Knochel, Member

ATTEST:

Robert A. Plantenga, Auditor